

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2680 of 2001

to

FIRST APPEAL No 2694 of 2001

with

CIVIL APPLICATION Nos.6412 to 6426 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

MAHIJIBHAI BHAYJIBHAI DECD. BYHEIR DOLIBEN MAHIJIBHAI

Appearance:

MR MUKESH PATEL, AGP, for the appellants .
MR VN RAVAL for the respondents.

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 27/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

Admit. Service of notice is waived by learned advocate Mr.V.N.Raval for the respondents.

In this group of 15 appeals filed by the appellants, by invoking the aids of the provisions of section 54 of the Land Acquisition Act, 1894, (the Act, for short) the challenge is against the common judgment rendered, after consolidating the Land Acquisition Reference No.1012/90 (main) and different awards passed on 10th April, 2000, by the third Joint Civil Judge (S.D.), Godhra of Panchmahal district, at Godhra, inter alia, contending that the fixity of the market price under section 23 of the Act is on the higher side.

We have heard the learned advocates appearing for the parties. Before issuance of notice, at the admission stage, learned advocate Mr.V.N.Raval appeared for the respondents, whereas, learned AGP Mr.Mukesh Patel appeared for the appellants. Upon joint request, entire group is taken up for final hearing, even without calling for the original records and proceedings since the copies of evidence, both documentary as well as viva voce, came to be supplied to us, in course of hearing.

The skeleton projection of facts giving rise to this group of 15 appeals, may, initially, be highlighted so as to appreciate the merits and challenge against the appeals. It appears that 17 references came to be decided by a common judgment and award passed by the Special Land Acquisition Officer, Narmada Project, Unit-I, Baroda, on 20.11.89. The impugned common judgment is also in respect of 17 references. Since in two matters, on account of death of the respondents, they have been shunted out from the group. That is how, this batch of 15 appeals on hand for consideration and adjudication.

The lands under references are situated in village Satamana, Taluka Kalol, District: Panchmahals, which have been acquired for the project of Narmada Main Canal. The acquiring body, Executive Engineer, Narmada Main Canal, Unit-1, appellant No.2, original respondent No.2 initiated the acquisition proceedings in the month of April 1987. Appellant No.1 is the Special Land Acquisition Officer, who conducted the acquisition proceedings and passed common award after observing necessary statutory formalities. In this connection, it may be stated that notification under section 4(1) of the Act, came to be issued on 8.12.87, whereas, notification under section 6(1) came to be issued on 7.1.88. Notice under section 9 was also, issued and served upon the claimants who had, also, raised their claims and objections, whereby, they claimed compensation of an amount of Rs.10 per sq. mtr. against the award of eighty paise per sq. mtr. as per the common award of the Land Acquisition Officer. The Special Land Acquisition Officer declared the award on 20.11.89 and awarded compensation of Rs.8000/- per hectore, which means that an amount of 80 paise per sq. mtr. was awarded.

The respondents herein, owners of the land, being dissatisfied by the award of the Land Acquisition Officer made applications under section 18(1) of the Act for reference to the District Court. All the 17 references made by the original claimants were consolidated and in Land Acquisition Reference No.1012/90, as the main case, evidence was led. On behalf of the claimants only one witness Ex.16, one Bhairavsinh Mangalsinh Parmar was examined. The claimants, also, placed reliance on documentary evidence in the form of award made by the same Court in respect of acquisition of land arising out of notification of the same date, wherein the same reference Court awarded an amount of Rs.7/-, in all, per sq. mtr. which is produced at Ex.17. The award Ex.17, was questioned by the appellants before this Court, unsuccessfully, and the common judgment of this Court is placed on record at Ex.18. Again, the appellants assailed the common judgment of this Court before the Hon'ble Apex Court, also, again, unsuccessfully. It is, therefore, abundantly, clear that the most important and comparable award of the same reference court produced, at Ex.17, after having been, tested and tried by this Court and as well as Supreme Court, has become final. It is a settled proposition of law that the award in respect of the acquisition of land of reference Court is one of the good evidence for comparison purpose so as to arrive at a just and reasonable amount of market value as contemplated by the provisions of the Act. This

proposition, rightly, not questioned before us, as it is, very well expounded and settled by catena of judicial pronouncements. There is no dispute about the fact that notification date, in respect of group of appeals and in the comparable award produced at Ex.17 is the same. Again, it is in respect of the same village, same purpose, and the amount of award totally awarded by the reference court and confirmed by this Court as and as well as the Hon'ble Supreme Court is Rs.7/- in all. Therefore, the reference Court has, rightly, placed reliance on the documentary evidence which is comparable award. It is, in this context, the reference Court has, analysed the evidence of the claimants in para 11 of the impugned common judgment and nothing has been submitted against the observations and the fixity of market price at Rs.7 in all per sq. mtr. Needless to state that the appellants, have not led any evidence for the reason not known to us.

After having taken into consideration the facts and circumstances emerging from the copies of the documentary evidence as well as oral evidence supplied to us, in course of the hearing by the learned advocates appearing for the parties and the evidence of the solitary witness on behalf of the claimants at Ex.16, supported by the documentary evidence produced at Ex.17 and the award made by the reference Court which is quite comparable, as observed hereinabove and confirmed by this Court and the Hon'ble Apex Court and the relevant proposition of law and the principles enshrined under section 23 of the Act, we are of the clear opinion that this group of appeals on hand, deserves only and only one fate and that is of dismissal. Therefore, this group of appeals must fail. Accordingly, all the 15 appeals filed by the appellants are, hereby, dismissed with costs.

No order in the Civil Applications.

(J.N.Bhatt, J.)

(Akshay H. Mehta, J.)

(vjn)